IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

-

WRIT PETITION NO : 4205 of 1999

Between:

V. Pullama Raju S/o Seshaiah, Jirayati,
R/o 59/1, 59/1B, Fort Kurnool,
Kurnool District.

..... PETITIONER

AND

1 Commissioner, Municipal Corporation,
Kurnool, Kurnool District.
2 Town Planning Officer, Municipal Corporation,
Kurnool, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the Endorsement B.R.S.No.712/98/G2 dt:8-12-1998 whereunder directing the petitioner to pay an amount of Rs.99,035/- as illegal, arbitrary, and contrary to the provisions of G.O.Ms.No.419 M.A. Municipal Administration & Urban Development (M1) Dept., dt: 30-7-1998 and consequently direct the Respondents to receive the amount of Rs.10,000/- and regularise the deviations/ violated portions of the Petitioner's Building bearing No.59/1 and 59/1B, situated in Fort Road, Kurnool, Kurnool District.

Counsel for the Petitioner: MR. K.V.CHALAPATHI RAO

Counsel for Respondents: MR. V.RAGHUNATH REDDY (STANDING COUNSEL FOR MUNICIPALITY)

The Court made the following:

ORDER:

This writ petition is filed seeking to declare the endorsement B.R.S.No.712/98/G2, dated 08-12-1998, of the first respondent-Commissioner, Municipal Corporation, Kurnool, directing the petitioner to pay an amount of Rs.1,02,115/- within 7 days from the date of receipt of that endorsement by way of penal amount, development charges, building licence fee and other charges, as illegal, arbitrary and contrary to the provisions of G.O.Ms.No.419 Municipal Administration & Urban Development (M1) Department, dated 30-07-1998 and consequently, seeking a direction to the respondents to receive the amount of Rs.10,000/- and regularize the deviations/violated portions of the petitioner's building bearing Nos.59/1 and 59/1B, situated in Fort Road, Kurnool, Kurnool District.

2. The case of the petitioner is that he purchased the premises bearing Door Nos.59/1 and 59/1-B, situated in Fort Kurnool, under a registered sale deed dated 02-05-1997 from his vendors for valuable consideration of Rs.80,000/-. He constructed I and II Floors in 54 sq. yards of the building without obtaining permission under the impression that permission need not be required for 60 sq. yards house and paying Municipal taxes for the entire building as assessed by the respondents. In pursuance of G.O.Ms.No.419 Municipal Administration, 30-07-1998, he submitted an application along with plan for regularisation of the violated area. Thereupon, the first respondent-Commissioner, Municipal Corporation, Kurnool, served Endorsement B.R.S.No.712/98/G2, dated 08-12-1998, calling upon the petitioner to pay a sum of Rs.1,02,115/- being penal amount,

development charges, building licence fee and other charges after deducting Rs.1,000/-, which was paid along with application. Thereupon, the petitioner made a representation to the first respondent stating that he purchased the building after disposing his agricultural land and he has constructed I and II Floors by obtaining loans from financiers and in the month of August, 1998, the authorities promised to regularise the unauthorised construction made by the petitioner on payment of Rs.11,000/- and since he incurred loans from third parties he could not pay the said amount and he was under impression that he can pay Rs.10,000/- later. It is submitted that the first respondent has not calculated the rates following G.O.Ms.No.419, M.A., dated
30-07-1998 as stated in the Endorsement dated 08-12-1998. Therefore, he prayed to declare the Endorsement dated 08-12-1998 as illegal and arbitrary.

3. With regard to regularisation of the unauthorised construction made by the petitioner, no particulars were given as to how the respondents have arrived at these figures, except making this endorsement dated 08-12-1998 demanding payment of Rs.99,035/- after deducting Rs.1,000/- paid along with Form A, without following G.O.Ms.No.419 M.A., dated 30-07-1998,. Therefore, the endorsement dated 08-12-1998 of the first respondent-Commissioner, Municipal Corporation, Kurnool, is hereby set aside and the respondents are given liberty to calculate the amount as per the above said G.O. after giving an opportunity to the petitioner.

4. Accordingly, the writ petition is allowed. No order as to costs.

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ELIPE DHARMA RAO, J

19th July, 2005.

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That Rule Nisi has been made absolute as above.

Witness the Honourable Sri Bilal Nazki, the Acting Chief Justice on Tuesday this the Nineteenth day of July, Two thousand and Five.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner, Municipal Corporation,

Kurnool, Kurnool District.

2. The Town Planning Officer, Municipal Corporation,

Kurnool, Kurnool District.

3. Two CD copies.